

1 Hon. Richard A. Jones
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 UNITED STATES OF AMERICA,
10 Plaintiff,
11 v.
12 PAUL VON NAHME,
13 Defendant.

No. 2:21-cr-00192-RAJ

ORDER

15 THIS MATTER comes before the court on the United States' Motion to Appeal
16 Release Order (Dkt. # 17). The Court has reviewed the United States' motion, the
17 Defendant's opposition, the U.S. Probation and Pretrial Services Report, and the
18 audio recording of the detention hearing held before Judge Brian A. Tsuchida on
19 November 30, 2021, during which Judge Tsuchida ordered the Defendant's release
20 on bond. On that same date the Court granted the government's emergency motion
21 to stay release order pending the Court's ruling on the government's appeal. Being
22 fully advised, the Court hereby **DENIES** the United States' appeal.

23 The government contends that because the Defendant has pled guilty the
24 Magistrate Judge was required to detain him pursuant to 18 U.S.C. § 3143(a)(2).
25 The Defendant challenges this assertion and argues that until a District Judge accepts
26 a plea of guilty, a defendant who engages in a plea colloquy before a magistrate
judge has not been found guilty, requiring detention, as claimed by the government.

1 The Court has considered the government's argument regarding how this Court is to
2 treat a guilty plea before a Magistrate Judge. The Court finds persuasive *United*
3 *States v. Yanni*, No. CR09-1363, 2010 WL 3522271, and holds that Title 18 U.S.C.
4 § 3143(a)(2) does not control the circumstances now before this Court.

5 The Court further finds that release is appropriate in this case. Title 18 U.S.C.
6 § 3142 authorizes release as this Court finds there are conditions that will reasonably
7 assure the appearance of the Defendant and there are conditions that will minimize
8 any danger he poses to the safety of any other person, or the community.

9 In its appeal the government has identified clearly disturbing online chats. The
10 counter is that there is no evidence before this Court that the statements are true.
11 The Court recognizes the challenging circumstances of the words of the Defendant
12 against the denials by the subject of the statements and her observed demeanor by
13 law enforcement officers. What is compelling is that once released, the Defendant
14 will be restricted to home confinement with monitoring, a no-contact order with his
15 spouse and daughter, and a series of other restrictive conditions on his whereabouts
and restrictions on his freedom.

16 For these reasons, the stay pending appeal is rescinded and the Defendant shall
17 be released subject to each and every condition previously imposed by Magistrate
18 Judge Tsuchida.

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20 DATED this 7th day of December, 2021.

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22 The Honorable Richard A. Jones
23 United States District Judge
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